



FISHERIES RESOURCE MANAGEMENT

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MEMORANDUM

23 September 2008

TO: Fedilia Andy, Fish, Wildlife and Law & Order Committee Chairwoman
LaRena B. Sohapp, Fish, Wildlife and Law & Order Committee Secretary
Athena Sanchez, Fish, Wildlife and Law & Order Committee Member
Terry Goudy Rambler, Fish, Wildlife and Law & Order Committee Member

THROUGH: Philip Rigdon, DNR Deputy Director *PR*
Paul J. Ward, Fisheries Resource Management Program Manager *Paul J. Ward*

FROM: Rose M. Longoria, FRMP Superfund Project Coordinator *Rose M. Longoria*

RE: **Harbor Oil Superfund Site – EPA Grant Augmentation**

Attached is a Committee Action requesting approval for our Tribal Council Chairman's signature on a letter to the US Environmental Protection Agency (EPA). The letter officially requests a budget augmentation and timeline extension to our Harbor Oil Superfund Grant.

The budget augmentation request is for an additional \$30,000 for FY2009. This budget augmentation will provide funds for our involvement in the site investigation and feasibility studies, used to determine cleanup options. Our involvement is important to ensure an appropriate level of cleanup is performed at this Site to reduce impacts to Yakama Nation's fish resources.

Your time and consideration regarding the attached committee action is greatly appreciated. If you would like additional information or have any questions please call Paul Ward at ext. 6302 or Rose Longoria at ext. 6365.

Attachments: Committee Action Form
Letter to EPA
Grant Proposal and Federal Application Forms



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

RESOLUTION

T-204-00

WHEREAS, the Yakama Nation is a federally recognized Nation pursuant to the Treaty of June 9, 1855, ratified by Congress on April 11, 1959 (12 Stat. 951) and

WHEREAS, the Yakama Tribal Council is the governing body of the Confederated Tribes and Bands of the Yakama Nation of the Yakama Reservation, Washington, by the authority delegated by Resolution T-38-56, and

WHEREAS, the Article III of the Treaty of 1855 reserves to the Yakama Nation the exclusive right to fish, hunt, trap, etc. within the exterior boundaries of the Reservation and also the right to take fish at all usual and accustomed fishing locations on and off the Yakama Reservation, and

WHEREAS, the reserved treaty right to harvest fish included the right to clean water and fishery resources free of toxic chemicals which are harmful to fish and to tribal members who consume contaminated fish, and

WHEREAS, Yakama Tribal Council Resolution No. T-097-99 authorized tribal staff to work cooperatively with the Indian Health Service to evaluate tribal members' possible exposure to health risks from eating fish contaminated with toxic chemicals such as , radionuclides, pesticides, heavy metals, DDT, PCBs, and Dioxins, and

WHEREAS, a majority of these contaminants originate from identified industrial and agricultural sources, many of which are on the Yakama Reservation or within the Yakama Nation's usual and accustomed fishing areas throughout the Columbia and Snake River Basins, and

WHEREAS, Yakama Tribal Council Resolution No. T-40-90 established a tribal policy to end the use and discharge of certain highly persistent and toxic chemicals into the environment, and

WHEREAS, many of these sites such as the Lower Willamette River (Portland Harbor), Lake Roosevelt, and the Hanford Nuclear Reservation, have been identified and listed as federal Superfund sites requiring high priority cleanup under the Federal Toxic Cleanup Law, CERCLA (Comprehensive Environmental Restoration, Compensation and Liability Act), and

WHEREAS, Tribes are recognized as natural resource trustees under CERCLA and the Oil Pollution Act of 1990 (OPA) for fisheries and other natural and cultural resources on the reservation and within the ceded areas, and

WHEREAS, natural resources trustees status under CERCLA and OPA authorizes tribes to participate in toxic cleanup efforts and assert Natural Resource Damage Assessment claims (NRDA) against responsible polluters for restoration damages, and

WHEREAS, CERCLA defines restoration damages as monetary compensation for natural resource injuries to restore, rehabilitate, replace or acquire the equivalent of the injured natural resources and reasonable costs to assess the damage done to tribal resources, and

WHEREAS, funds to develop NRDA claims are available to tribes from the Department of the Interior (BIA) and the U.S. EPA in accordance with federal trust responsibilities as well as from private responsible polluters, private foundations and state cleanup programs.

NOW THEREFORE BE IT RESOLVED, by the Executive Board of the Yakama Tribal Council, acting under authority delegated by Section III-A of the Rules of Procedures, approved by Yakama Tribal Council Resolution T-10-61, dated July 13, 1960, and meeting at the Governmental Headquarter of the Yakama Nation, Toppenish, Washington, that the Yakama Nation Fisheries program is authorized to develop and submit funding proposals to the Department of the Interior and other federal, state, and private funding sources to acquire funds to assess resource impacts and restoration damages for treaty protected resources and to participate in federal Superfund and state cleanup processes, including evaluating and developing NRDA claims at known and potential federal Superfund sites.

BE IT FURTHER RESOLVED, that information obtained in the evaluation and development of NRDA claims will inherently involve some proprietary tribal information which will remain protected under the direction of the Yakama Nation Legal Counsel which will coordinate, review, and evaluate tribal program information for use in potential NRDA lawsuits or settlements for restoration damages for treaty protected resources.

BE IT STILL FUTHER RESOLVED, that information obtained in the evaluation and development of NRDA claims will inherently involve some proprietary tribal information which will remain protected under the direction of the Yakama Nation Legal Counsel which will coordinate, review, and evaluate tribal program information for use in potential NRDA lawsuits or settlements for restoration damages for treaty protected resources.

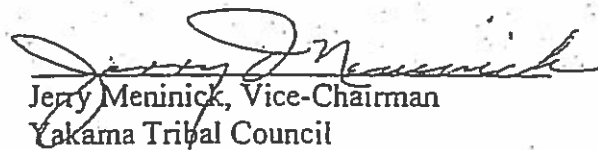
BE IT STILL FURTHER RESOLVED, that the Yakama Nation does not waive, alter, or otherwise diminish their Sovereign Immunity whether expressed or implied by virtue of submitting proposals to federal, state or private entities for evaluating restoration claims or contracting to individuals to assist

in this purpose. Nor does the Yakama Nation waive, alter, or otherwise diminish their rights, privileges, remedies or services guaranteed by the Treaty of 1855.

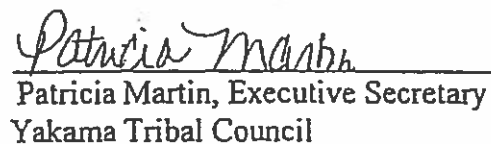
Done and dated this 15th day of August 2000, by the undersigned member of the Executive Board of the Yakama Tribal Council.



Lonnie Selam, Chairman
Yakama Tribal Council



Jerry Meninick, Vice-Chairman
Yakama Tribal Council



Patricia Martin, Executive Secretary
Yakama Tribal Council